

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL LATHER,)	CASE NO. 3:09CV0048
)	
)	
PETITIONER,)	JUDGE SARA LIOI
)	
vs.)	
)	
KEITH SMITH, Warden,)	ORDER
)	
RESPONDENT.)	
)	

On September 4, 2009, Magistrate Judge David S. Perelman issued a Report and Recommended Decision (“R&R”) recommending that Michael Lather’s petition for writ of habeas corpus be dismissed in its entirety because his first, second and fourth claims fail on the merits and his third claim is procedurally defaulted. Objections to the R&R were due by September 18, 2009. To date, no objections have been filed, no request for an extension has been made, and there has been no document returned as undelivered by the U.S. Postal Service.

Accordingly, no objections having been heard, the R&R is accepted. This petition for writ of habeas corpus is **DENIED** and the case **DISMISSED**.

Further, in view of the fact that failure to file objections constitutes a waiver of the right to appeal, *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *see also, Thomas v. Arn*, 474 U.S. 140 (1985), *reh’g denied*, 474 U.S. 1111 (1986), the Court **CERTIFIES** that an

appeal from this decision could not be taken in good faith and that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. §§ 1915(a)(3), 2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

Dated: October 9, 2009



HONORABLE SARA LIOI
UNITED STATES DISTRICT JUDGE